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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

GLORIA K. FINLEY,

Plaintiffs,

v.

PENTAGROUP FINANCIAL, LLC,

Defendant.

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Civil Action No.

Jury Trial Demanded

COMPLAINT

GLORIA FINLEY ("Plaintiff"), by and through her attorneys, KIMMEL & SILVERMAN, P.C., allege the following against PENTAGROUP FINANCIAL, LLC ("Defendant"):

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA").

II. JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 15 U.S.C. §1692k(d) and 28 U.S.C. §1331. Venue lies properly in this district pursuant to 28 U.S.C. §1391(b), as a substantial part of the events and omissions giving rise to the claim occurred within this District.

3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

III. PARTIES

4. Plaintiff is a natural person who resides in Nashville, Tennessee.

1 5. Defendant is a debt collection company with headquarters located at 5959
2 Corporate Drive, Suite 1400, Houston, Texas 77036.

3 6. At all relevant times, Defendant acted as a “debt collector” within the meaning
4 of 15 U.S.C. § 1692(a)(6), and attempted to collect a “debt” as defined by 15 U.S.C.
5 §1692(a)(5).
6

7 7. Defendant regularly does business in Tennessee, therefore personal jurisdiction
8 exists.
9

10 8. Defendant acted through its agents, employees, officers, members, directors,
11 heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.
12

13 **IV. FACTUAL ALLEGATIONS**

14 9. At all relevant times, Defendant sought to collect a consumer debt from Plaintiff
15 and her husband, Jerry Finley.
16

17 10. The alleged debt arose out of transactions that were for personal, family or
18 household purposes, as Plaintiff has no business debt.

19 11. Beginning in or around November 2012, Defendant’s collectors, including but
20 not limited to “Keirshaw Pennick” and a person known only as “Mr. Zarza,” began placing
21 calls to Plaintiff’s home telephone and to Plaintiff’s elderly father in-law Lonnie Finley.
22

23 12. Defendant harassing collection calls derived from numbers including, but not
24 limited to (800) 979-4076. The undersigned has confirmed that this number belongs to
25 Defendant.
26

27 13. On several occasions, Defendant’s collectors called Plaintiff at least four (4)
28 times in a 24 hour period.

1 14. On or around November 11, 2012, Plaintiff's husband, Jerry Finely, sent a cease
2 and desist letter to Defendant via certified mail. See November 11, 2012 Letter, herein
3 attached as Exhibit "A."

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5 15. Defendant received Exhibit A on November 28, 2012. See Track & Confirm
6 receipt, herein attached as Exhibit "B."

7 16. Despite receiving Exhibit "A," Defendant continued to call Plaintiff through the
8 end of November 2012.

9
10 17. Additionally, Defendant placed repeated calls to Plaintiff's elderly father in-law,
11 Lonnie Finley, and disclosed that Plaintiff and her husband owed a debt.

12 18. Lonnie Finely is over eighty (80) years if age and Plaintiff was extremely
13 embarrassed that Defendant disclosed their private finances to their family members.

14 19. On or around November 13, 2012, Plaintiff called Defendant and demanded that
15 it stop contacting Lonnie Finley as she does not live with him and wanted to keep her personal
16 financial information private.

17
18 20. Plaintiff provided Defendant with her address and additional contact information
19 so the collection calls would come to her instead of her father in-law.

20 21. Defendant's collector responded by telling Plaintiff it would keep calling him
21 because it "intended to be paid."

22
23 22. Despite knowing Plaintiff's contact information, Defendant continued to place
24 calls to Lonnie Finley.

25 23. Defendant's actions caused Plaintiff to suffer increased stress, anxiety, familial
26 discord, and suffer loss of sleep.

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28 24. Defendant took the actions described herein with the intent to harass, deceive
and coerce payment from Plaintiff, without regard for their FDCPA rights.

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4 **COUNT I**
5 **DEFENDANT VIOLATED THE § 1692c(b) OF THE FAIR DEBT**
6 **COLLECTION PRACTICES ACT**

7 25. Section 1692c(b) of the FDCPA prohibits the disclosure that a consumer owes a
8 debt to third parties without the consumer's prior consent.

9 26. Defendant violated § 1692c(b) of the FDCPA when it disclosed to Lonnie
10 Finley, Plaintiff's father in-law, that Plaintiff and her husband owed a debt.

11
12 **COUNT II**
13 **DEFENDANT VIOLATED THE § 1692c(c) OF THE FAIR DEBT**
14 **COLLECTION PRACTICES ACT**

15 27. Section 1692c(c) of the FDCPA mandates that if a consumer notifies a debt
16 collector in writing that the consumer wishes the debt collector to cease further communication
17 with the consumer, the debt collector shall not communicate further with the consumer with
18 respect to such debt.

19 28. Defendant violated § 1692c(c) of the FDCPA when it received Plaintiff's
20 November 11, 2012 Cease and Desist Letter on November 28, 2012 and continued to call
21 Plaintiff. See Exhibits "A" and "B."
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COUNT III
DEFENDANT VIOLATED THE §§ 1692d AND 1692d(5) OF THE FAIR DEBT
COLLECTION PRACTICES ACT

29. Section 1692d of the FDCPA prohibits debt collectors from engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

30. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with the intent to annoy, abuse, or harass any person at the called number.

31. Defendant violated §§ 1692d and 1692d(5) when it called Plaintiff continuously and repeatedly, when it called Plaintiff after receiving her cease and desist letter, when it told Plaintiff it would not stop calling because it expected to get paid, and when it engaged in other harassing or abusive conduct.

COUNT IV
DEFENDANT VIOLATED THE § 1692f OF THE FAIR DEBT
COLLECTION PRACTICES ACT

32. Section 1692f of the FDCPA prohibits a debt collector from using unfair or unconscionable means to collect or attempt to collect any debt.

33. Defendant violated § 1692f of the FDCPA when it continued to place calls to Lonnie Finley despite Plaintiff reaching out and informing it that they do not live with him, when it placed repeated harassing telephone calls to Plaintiff, when it called Plaintiff after receipt of the cease and desist letter, and when engaged in other unconscionable means to collect the alleged debt.

1 WHEREFORE, Plaintiff, GLORIA K. FINLEY, respectfully prays for a judgment as
2 follows:

- 3 a. All actual compensatory damages suffered pursuant to 15 U.S.C. §
4 1692k(a)(1);
5
6 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to
7 15 U.S.C. § 1692k(a)(2)(A);
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9 c. All reasonable attorneys' fees, witness fees, court costs and other litigation
10 costs incurred by Plaintiffs pursuant to 15 U.S.C. § 1693k(a)(3);
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12 d. Any other relief that this court deems reasonable and necessary.

13 **DEMAND FOR JURY TRIAL**

14 PLEASE TAKE NOTICE that Plaintiff, GLORIA K. FINLEY, demand a jury trial in
15 this case.

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19 DATED: 09/30/2013

RESPECTFULLY SUBMITTED,

KIMMEL & SILVERMAN, P.C.

By: 

Amy L. Bennecoff, Esq.

BPR # 28563

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